

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
Newport News Division

UNITED STATES OF AMERICA

v.

4:07CR166

MARIN RAMIREZ-MORALES

Defendant.

REPORT AND RECOMMENDATION
CONCERNING GUILTY PLEA

Defendant, by consent, has appeared before the undersigned pursuant to Rule 11, Federal Rules of Criminal Procedure, and referral from a United States District Judge and has entered guilty pleas to sale of a social security card and aggravated identity theft, in violation of 42 U.S.C. § 408(a)(7)(C) and 18 U.S.C. § 1028A. On January 11, 2008, defendant appeared before the Court for the purpose of entering his guilty pleas. Defendant was represented by appointed counsel, Kevin Diamonstein, Esquire.

Defendant speaks no English, therefore the assistance of an interpreter was necessary. At one point, there appeared to be a problem arising from how the seizure of certain documents pursuant to a search warrant was handled. The Court permitted counsel and defendant to discuss the issue out of the hearing of the other persons in the courtroom, and after a short period, the colloquy with defendant was able to resume. Defendant indicated his understanding of the issue, answered the Court's questions appropriately, and made clear that he was not asserting any constitutional violation in the seizure of material.

Defendant was appropriate in appearance, responsive, and competently prepared for the hearing. He answered all questions put to

him in clear and concise language. On those occasions when he had a question, defendant consulted with counsel and the interpreter and then promptly answered. Defendant was courteous and appropriate in his behavior at all times and clearly understood the seriousness of his position. At the close of the proceeding, defendant was remanded to the custody of the United States Marshal, pending completion of a presentence report.

Defendant is thirty-three years of age, was raised by his grandmother and has never attended school, and speaks Spanish as his native language. There was no evidence that defendant was on drugs, alcohol, or medication which might impair his judgment. He was cooperative throughout the proceeding.

Defendant entered his guilty pleas pursuant to a plea agreement. The Court is completely satisfied, based upon defendant's responses, that he fully appreciates his position. Furthermore, he acknowledged that the statement of facts prepared in anticipation of his pleas accurately reflects the government's evidence, in the event of trial.

After cautioning and examining defendant under oath concerning each of the subjects mentioned in Rule 11, the Court determined that the offenses charged are supported by independent facts, establishing each of the essential elements of such offenses. Therefore, the Court recommends that the guilty pleas be accepted and that defendant be adjudged guilty and have sentence imposed accordingly.

Failure to file written objections to this report and recommendation within ten days from the date of its service shall bar an

aggrieved party from attacking such report and recommendation before the assigned United States District Judge. 28 U.S.C. § 636(b)(1)(B).

/s/
James E. Bradberry
United States Magistrate Judge

Norfolk, Virginia

January 17, 2008